

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 20938**

Application 30512 of Michael Kerson and Nancy Kerson

1141 Congress Valley Road, Napa, CA 94558

filed on February 29, 1996, has been approved by the State Water Resources Control Board  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Napa River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Township	Range	Base and Meridian
By California Coordinate System, Zone 2					
1) North 224,600 feet and East 1,906,400 feet	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	17	5N	4W	M
2) North 224,500 feet and East 1,905,100 feet	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	17	5N	4W	M

\* projected

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Stockwatering						
Irrigation	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	17	5N	4W	M	10
	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	17	5N	4W	M	1
	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	17	5N	4W	M	2
	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	17	5N	4W	M	2
					TOTAL	15

The saline pond (located within the S $\frac{1}{2}$  of the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 17, T5N, R4W, MDB&M), and a setback extending  $\geq$  50 feet from that basin perimeter (approximately as described in the map attached to the October 29, 1996 Rare Plant Survey report prepared by Jake A. Ruygt) shall be excluded from the place of use under this permit.

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 25 acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 2 cubic feet per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the authorized use shall be made by December 31, 2006. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

12. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing. (0000042)

13. Permittee shall maintain the existing outlet pipe of adequate capacity in the dam in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. (0050044)

14. This permit is specifically subject to prior rights under appropriations issued pursuant to Application 25580C-1, Application 30236, Application 25580A-1, Application 25580A-2, and Application 29443, hereafter referred as the parties. (000T001)

15. Once permittee has collected 10 acre-feet pursuant to Application 15807, permittee shall bypass 3 cubic feet per second until the prior rights of the parties are satisfied during the current collection season. Permittee shall not pump water from Reservoir No. 1 into Reservoir No. 2 whenever streamflows are less than 3 cubic feet per second until the prior rights of the parties are satisfied. (0160400)

16. Bypass flows shall be measured at the existing rated staff gage at Old Sonoma Road Bridge over the Unnamed Stream. Permittee shall be responsible for assisting in the maintenance of this gage and shall supply a rating curve for the gage to the State Water Resources Control Board (0060400)

17. For the preservation of an environmentally sensitive and geographically unique saline habitat, the saline pond, identified in the October 29, 1996 Rare Plant Survey report prepared by Jake A. Ruygt, shall not be subject to any future development. Permittee shall maintain a setback identified under item 4 of this permit. No land disturbance activity shall occur within the setback area, including any silt, resulting from agriculture practices, flowing into this area. (0400500)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: [ OCTOBER 8 1997

STATE WATER RESOURCES CONTROL BOARD

*Roger Johnson*  
Chief, Division of Water Rights